

**DEPARTMENT OF HEALTH SERVICES
BUREAU OF EMERGENCY MEDICAL SERVICES AND TRAUMA SYSTEM**

**SUBSTANTIVE POLICY STATEMENT
#SP-083-PHS-EMS**

Interpretation of A.R.S. § 36-2220(A) through (D), as Related to Disclosures by ADHS

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties, you may petition the agency under Arizona Revised Statutes § 41-1033 for a review of the statement.

The purpose of this substantive policy statement is to notify the public of the Arizona Department of Health Services' (ADHS's) interpretation of A.R.S. § 36-2220(A) through (D), as related to disclosures of information by ADHS.

A.R.S. § 36-2220(A)

A.R.S. § 36-2220(A) provides:

- A. Information developed and records kept by the department or a political subdivision of this state for the purpose of administering or evaluating the Arizona emergency medical services system or for the trauma system are available to the public except:
1. Any patient record including clinical records, prehospital care records, medical reports, laboratory statements and reports, any file, film, record or report or oral statement relating to diagnostic findings, treatment or outcome of patients, whether written or recorded, and any information from which a patient, the patient's family or the patient's health care provider or facility might be identified except records, files and information shall be available to the patient, the patient's guardian or the patient's agent.
 2. Information obtained for purposes of chapter 25 or chapter 4, article 5 of this title.

ADHS interprets A.R.S. § 36-2220(A)(1) as providing an almost absolute exception to the general requirement for disclosure for:

- Any patient record, including the specific types of records and reports listed;
- Any file, film, record, or report or oral statement relating to diagnostic findings, treatment, or outcome of patients, whether written or recorded; and
- Any information from which a patient, the patient's family, or the patient's health care provider or facility might be identified.

ADHS interprets A.R.S. § 36-2220(A)(1) to allow for disclosure of these items only to the patient, the patient's guardian, or the patient's agent.

ADHS interprets A.R.S. § 36-2220(A)(2) as providing an absolute exception to the general requirement for disclosure for information obtained for purposes of health care quality assurance activities under A.R.S. §§ 36-2401 through 36-2404 and for purposes of review of certain health care practices under A.R.S. §§ 36-445 through 36-445.04. It is important to note, however, that documents and information in ADHS's possession that are otherwise subject to disclosure do not become confidential simply because they are considered during health care quality assurance activities or review of certain health care practices under these statutes. For purposes of whether a document or information is subject to the general requirement for disclosure, the original nature of the document or information is retained, even if

the document or information is subsequently considered for purposes of health care quality assurance activities or review of certain health care practices.

A.R.S. § 36-2220(B)

A.R.S. § 36-2220(B) provides that medical records developed and kept by a prehospital component of the statewide trauma system and information in those records is confidential and may not be released to the public without written authorization from the patient, the patient’s guardian, or the patient’s agent.

Because ADHS is not a prehospital component of the statewide trauma system, ADHS believes that this provision does not apply to ADHS.

A.R.S. § 36-2220(C)

A.R.S. § 36-2220(C) provides that, notwithstanding A.R.S. § 36-2220(B), a prehospital incident history report completed and kept by a nonhospital political subdivision of this state is available to the public except for information therein that is protected from disclosure by state or federal law.

Because ADHS does not complete prehospital incident history reports and is not a nonhospital political subdivision of this state, ADHS believes that this provision does not apply to ADHS.

A.R.S. § 36-2220(D)

A.R.S. § 36-2220(D) provides that patient records and medical records covered by A.R.S. § 36-2220 may be obtained pursuant to A.R.S. § 12-2294.01.

A.R.S. § 12-2294.01 applies to subpoenas seeking medical records or payment records from health care providers. “Health care provider” is defined in A.R.S. § 12-2291 to mean:

- (a) A person who is licensed pursuant to A.R.S. Title 32 and who maintains medical records,
- (b) A health care institution as defined in A.R.S. § 36-401,
- (c) An ambulance service as defined in A.R.S. § 36-2201, or
- (d) A health care services organization licensed pursuant to A.R.S. Title 20, Chapter 4, Article 9.

Because ADHS does not fit within the definition of “health care provider” in A.R.S. § 12-2291, the provisions of A.R.S. § 12-2294.01 do not apply to ADHS. Thus, A.R.S. § 36-2220(D) also does not apply to ADHS.

***Effective January 26, 2007
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